

MONTANA LEGISLATIVE HISTORY

Chapter 664 19 1989

Bill H _____ S 241 Original bill & history ✓c

H. Committee on State Admin

Hearing Date(s) _____ c

3/8 _____ c

3/16 ✓c

4/6 ✓c

Date Out _____ c

S. Committee on Judiciary

Hearing Date(s) _____ c

_____ c

1/31 ✓c

2/2 ✓c

2/6 ✓

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

SENATE BILL NO. 241

INTRODUCED BY MAZUREK, SPAETH, COBB,
BECK, CAMPBELL, O'CONNELL, RASMUSSEN

IN THE SENATE

JANUARY 25, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 6, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 7, 1989	PRINTING REPORT.
FEBRUARY 8, 1989	ON MOTION, PASS CONSIDERATION UNTIL THE 35TH LEGISLATIVE DAY.
FEBRUARY 10, 1989	ON MOTION, PASS CONSIDERATION UNTIL THE 37TH LEGISLATIVE DAY.
FEBRUARY 13, 1989	SECOND READING, DO PASS.
FEBRUARY 14, 1989	ENGROSSING REPORT.
FEBRUARY 15, 1989	THIRD READING, PASSED. AYES, 49; NOES, 1.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 15, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
FEBRUARY 20, 1989	FIRST READING.
APRIL 6, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 10, 1989	SECOND READING, CONCURRED IN AS AMENDED.

APRIL 11, 1989

THIRD READING, CONCURRED IN.
AYES, 75; NOES, 23.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 13, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 15, 1989

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 18, 1989

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 19, 1989

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT NO. 1 REJECTED.

FREE CONFERENCE COMMITTEE REPORTED.

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT NO. 2 ADOPTED.

ON MOTION, RULES SUSPENDED AND BILL
PLACED ON THIRD READING THIS DAY.

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT NO. 2 ADOPTED.

IN THE HOUSE

APRIL 19, 1989

FREE CONFERENCE COMMITTEE
REPORT NO. 1 REJECTED.

APRIL 20, 1989

FREE CONFERENCE COMMITTEE
REPORT NO. 2 ADOPTED.

IN THE SENATE

APRIL 21, 1989

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

INTRODUCED BY

BILL NO. 241

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE JUDGES' RETIREMENT SYSTEM; REALLOCATING THE DISTRIBUTION OF DISTRICT COURT FEES TO MAINTAIN THE ACTUARIAL SOUNDNESS OF THE SYSTEM; INCREASING THE PERCENTAGE OF SALARY USED TO CALCULATE A MEMBER'S SERVICE RETIREMENT ALLOWANCE AFTER 15 YEARS OF SERVICE IN THE SYSTEM; AMENDING SECTIONS 19-5-404, 19-5-502, AND 25-1-201, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 19-5-404, MCA, is amended to read:

"19-5-404. Contributions by the state. The state of Montana shall contribute monthly to the fund a sum equal to 6% of the salary of each member. In addition, the clerk of each district court shall transmit 68% of certain filing fees as required under 25-1-201(2) and that portion of the fee for filing a petition for dissolution of marriage and a motion for substitution of a judge specified in 25-1-201(4) and (6) to the state, which shall first deposit in the fund an amount equal to 3 1/3% 35.73% of the salaries paid to district judges and supreme court justices who are covered by the judges' retirement system and then deposit the

balance in the state general fund. The clerk of the supreme court shall pay one-fourth of the fees collected under 3-2-403 to the public employees' retirement division of the department of administration to be credited to the fund."

Section 2. Section 19-5-502, MCA, is amended to read:

"19-5-502. Service retirement allowance. Upon retirement from service, a member shall receive a service retirement allowance which shall consist of the state annuity plus the member's annuity. The member's annuity shall be the actuarial equivalent of his aggregate contributions at the time of retirement. The state annuity shall be in an amount which, when added to the member's annuity, will provide a total retirement allowance of 3 1/3% per year of his final salary for the first 15 years' service and ~~1 1/2%~~ 2% per year for each year's service thereafter after 15 years."

Section 3. Section 25-1-201, MCA, is amended to read:

"25-1-201. Fees of clerk of district court. (1) The clerk of the district court shall collect the following fees:

(a) at the commencement of each action or proceeding, except a petition for dissolution of marriage, from the plaintiff or petitioner, \$60; for filing a complaint in intervention, from the intervenor, \$60; and for filing a petition for dissolution of marriage, a fee of \$100;

1 (b) from each defendant or respondent, on his
 2 appearance, \$40;

3 (c) on the entry of judgment, from the prevailing
 4 party, \$25;

5 (d) for preparing copies of papers on file in his
 6 office, 50 cents per page for the first five pages of each
 7 file, per request, and 25 cents per page thereafter;

8 (e) for each certificate, with seal, \$2;

9 (f) for oath and jurat, with seal, \$1;

10 (g) for search of court records, 50 cents for each
 11 year searched, not to exceed a total of \$25;

12 (h) for filing and docketing a transcript of judgment
 13 or abstract of judgment from all other courts, \$5;

14 (i) for issuing an execution or order of sale on a
 15 foreclosure of a lien, \$2;

16 (j) for transmission of records or files or transfer
 17 of a case to another court, \$5;

18 (k) for filing and entering papers received by
 19 transfer from other courts, \$10;

20 (l) for issuing a marriage license, \$30;

21 (m) on the filing of an application for informal,
 22 formal, or supervised probate or for the appointment of a
 23 personal representative or the filing of a petition for the
 24 appointment of a guardian or conservator, from the applicant
 25 or petitioner, \$50, which includes the fee for filing a will

1 for probate;

2 (n) on the filing of the items required in 72-4-303 by
 3 a domiciliary foreign personal representative of the estate
 4 of a nonresident decedent, \$35;

5 (o) for filing a declaration of marriage without
 6 solemnization, \$30;

7 (p) for filing a motion for substitution of a judge,
 8 \$100.

9 (2) Except as provided in subsections (3) through (6),
 10 32% of all fees collected by the clerk of the district court
 11 must be deposited in and credited to the general fund of the
 12 county. The remaining portion of the fees must be remitted
 13 to the state to be deposited as provided in 19-5-404.

14 (3) In the case of a fee collected for issuing a
 15 marriage license or filing a declaration of marriage without
 16 solemnization, \$14 must be deposited in and credited to the
 17 state general fund, \$6.40 must be deposited in and credited
 18 to the county general fund, and \$9.60 must be remitted to
 19 the state to be deposited as provided in 19-5-404.

20 (4) Of the fee for filing a petition for dissolution
 21 of marriage, \$75 ~~\$40~~ must be deposited in the state general
 22 fund, \$35 must be remitted to the state to be deposited as
 23 provided in 19-5-404, \$5 must be deposited in the children's
 24 trust fund account established by 41-3-702, and \$20 must be
 25 deposited in and credited to the general fund of the county.

(5) (a) Before the percentages contained in subsection (2) are applied and the fees deposited in the county general fund or remitted to the state, the clerk of the district court shall deduct from the following fees the amounts indicated:

(i) at the commencement of each action or proceeding and for filing a complaint in intervention as provided in subsection (1)(a), \$35;

(ii) from each defendant or respondent, on his appearance, as provided in subsection (1)(b), \$25;

(iii) on the entry of judgment as provided in subsection (1)(c), \$15; and

(iv) from the applicant or petitioner, on the filing of an application for probate or for the appointment of a personal representative or on the filing of a petition for appointment of a guardian or conservator, as provided in subsection (1)(m), \$15.

(b) The clerk of the district court shall deposit the money deducted in subsection (5)(a) in the county general fund for district court operations unless the county has a district court fund. If the county has a district court fund, the money must be deposited in that fund.

(6) The fee for filing a motion for substitution of a judge as provided in subsection (1)(p) must be remitted to the state to be deposited in--the-state-general-fund as

provided in 19-5-404."

NEW SECTION. **Section 4. Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 1989.

-End-

Senator Halligan asked if they have looked at case load correlations with other states. Jim Oppedahl, Administrator of the Supreme Court, replied that they had not looked directly at that item, although they had prepared a workload in Montana for both the Supreme Court and District Court level. They found that the case load was at or higher than the national average. He stated that most states look at CPI and the cost of living. He said Idaho's salaries are nearly even with CPI.

Closing by Sponsor: Senator Crippen closed by stating that he supported SB 155 because providing a fair method that the public would accept. He said that the State would be neither at the top nor at the bottom. He pointed out that the indexing method would allow the state to see where they actually should be. The state's judicial system and elected officials were capable and deserved more than being at the bottom, he said and he urged the committee's acceptance of SB 155.

HEARING ON SENATE BILL 241

Presentation and Opening Statement by Sponsor: Senator Mazurek of Helena, District 23, opened the hearing. SB 241 would revise the Judges' retirement system and would encourage younger judges to stay on the bench. It would reallocate the distribution of District Court fees to maintain the actuarial soundness of the system. He pointed out Section 2 of the bill which stated that, under the present system, the judges retirement pay is based upon years of service and percentage of contribution. Once a judge serves the first fifteen years of his term of office or service to the state he is provided a retirement allowance of 3 1/3% per year. At present, after a judge has served for fifteen years, his retirement benefit is reduced from 3 1/3% to 1% for each additional year of service. He explained that SB 241 would minimize the penalty by cutting from 1% to 2%. He continued to say that the proposal would be

funded out of the general fund. However, that general fund allocation comes from fees paid for the

substitution of judges and also \$35 would come from the Marital Dissolution Fee. The Appropriation Subcommittee has already taken the \$40 "displaced homemaker fee" and the New Horizons program, he said from the Unemployment Administrator Tax Account. This bill would allow about \$492 per year of service to a District Judge. Judges pay 7% of their salary per year just to judicial retirement. Only 19 district judges would be affected by this bill. The Public Employees Retirement System administers this program and has concern for actuarial soundness. He stated that the bill would cost \$98,000 a year with a \$67,000 for cushion. The cushion would go to a retirement account only until the actuarial soundness is restored; then the money would then go back to the general fund. He asked for favorable consideration.

List of Testifying Proponents and What Group they Represent:

Larry Nachtheim, Public Employee Retirees Division
Tom Schneider, MPEA
George Bousliman, State Bar of Montana
Jean Turnage, Chief Justice of the Montana Supreme Court

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Larry Nachtheim, representing Public Employee Retirees Division, stated that the Board stood in support of SB 241. He stated that SB 241 would provide funding for the retirement system's present shortfall. (See fiscal note).

Tom Schneider, representing the MPEA, stated he wrote the original retirement act and was asked to give some background on the subject. He stated that, when he wrote the original act in 1967, he did not envision eliminating the service credits after fifteen years at 1%. The original retirement system limited benefits to 75%, but provided the full 3 1/3% per year for credit until the person reached retirement age. He continued to say that all retirement systems administered in the State of Montana have now taken off the restrictions

which cut back benefits and the limitations, except for the judges system and that is what this bill would do.

George Bousliman, representing the State Bar of Montana, stated this bill would encourage young judges to stay on the bench. He supported SB 241.

Jean Turnage, Chief Justice of the Montana Supreme Court, encouraged the committee to consider SB 241. He pointed out that, at this time, the District and Supreme Court judges have to reach the age of 65 before they are eligible for retirement, as well as having the cut back benefits.

Opponents:

None

Questions From Committee Members: Senator Halligan thought the use of Dissolution of Marriage fees could cause problems. Senator Mazurek stated, this year the budget subcommittee had "freed up" \$40 of the \$100 fee, taking only \$35 which, is freeing up an additional \$5 for the programs. He said that \$23,000 of it would come from the substitution of judges. Jim Oppendahl stated the funding of the judicial system had used as the District Court fee, instead of taking a certain percentage of all fees. This bill would attempt to make up the salaries shortfall in the judges retirement system.

Closing by Sponsor: Senator Mazurek closed by stating that judges need credit for what they pay in. He urged the committee to support SB 241.

DISPOSITION OF SENATE BILL 157

Discussion: There was none.

Amendments and Votes: Senator Halligan moved to amend SB 157. (See Exhibit 5.) The motion CARRIED UNANIMOUSLY.

Recommendation and Vote: Senator Halligan moved that SB 157 DO PASS AS AMENDED. The motion CARRIED unanimously.

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date Jan. 31, 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS			
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

DISCUSSION ON SENATE BILL 196

Senator Crippen explained to the committee that a correction had been made to properly reflect the committee's wishes on the standing committee report as to the salary raises for the supreme court justices and district court judges. That, he stated, was the reason for the delay in the committee report on the floor of the senate.

DISCUSSION ON SENATE BILL 112

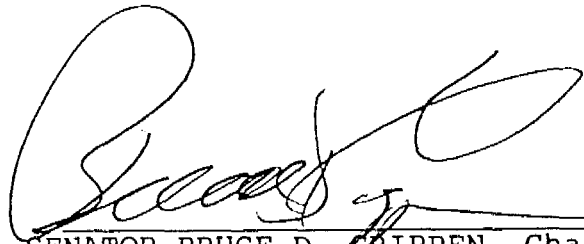
Senator Mazurek's fraud transfer bill was discussed by the committee. Senator Mazurek asked that action on the bill be postponed until a further meeting.

DISCUSSION ON SENATE BILL 241

Senator Mazurek asked that action on SB 241 be withheld until a future date as he didn't want it to appear on the floor of the senate the same day as the bill for judges raises, as SB 241 pertained to judges retirement. The committee concurred.

ADJOURNMENT

Adjournment At: 11:25 a.m.

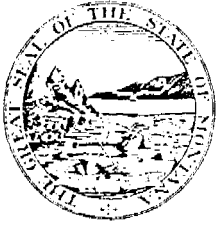


SENATOR BRUCE D. CRIPPEN, Chairman

BDC/rj

minrj.202

Montana Judges' Association

DATE 1/31/89
BILL NO. SB 155, 196, 241JUSTICE BUILDING -- ROOM 315
215 NORTH SANDERS
HELENA, MONTANA 59620-3001
TELEPHONE (406) 444-2621

February 3, 1989

Senator Bruce Crippen
Montana State Senate
Capitol Building
Helena, Montana 59620

Re: Testimony before Senate
Judiciary Committee on Senate
Bills 155, 196, and 241

Dear Senator Crippen:

Following my oral presentation to the Senate Judiciary Committee on January 31, 1989, one of the committee staff members asked me to write-up my testimony and submit it to the Committee.

Enclosed is my written testimony as best I can recall it.

Thanks for the opportunity to appear before your Committee and for your assistance with our bills.

Very truly yours,

Joel G. Roth
JOEL G. ROTH
DISTRICT JUDGE - GREAT FALLS
PRESIDENT - MONTANA JUDGES ASSOCIATION

Montana Judges' Association



SENATE JUDICIARY

EXHIBIT NO. Addendum

DATE 1/31/89 BS

BILL NO. SB 155, 196, 241

JUSTICE BUILDING — ROOM 315
215 NORTH SANDERS
HELENA, MONTANA 59620-3001
TELEPHONE (406) 444-2621

February 3, 1989

Testimony Before the Senate Judiciary Committee on Senate Bills
155, 196 and 241.

January 31, 1989, 10:00 A.M.

Old Supreme Court Courtroom

Good Morning Senators.

My name is Joel Roth. I am a District Judge from Great Falls having
served in that position for 12 years.

I am appearing before this Committee as spokesman for and President
of the Montana Judges Association. Our Association consists of 36
District Judges, 7 Supreme Court Justices, and the Workers Compensa-
tion Court Judge, a total of 44 active judges. The Association also
includes several retired District Court Judges and Supreme Court
Justices.

I wish to make two strong statements before I proceed with the rest
of my remarks.

1. MONTANA JUDGES ARE THE LOWEST PAID JUDGES IN THE ENTIRE
UNITED STATES!!

2. MONTANA JUDGES HAVE NOT HAD A SALARY INCREASE FOR OVER
THREE AND ONE-HALF YEARS!!

I believe it is an accepted fact in the employment arena that
an employer pays his employees a salary which is commensurate and
proportional to the responsibility which that employee is required
to and does shoulder. Hence, the more responsibility the employee
exercises, the more salary he is entitled to. The economic system
in the United States assumes that basic principle.

Montana Judges are not presently being paid an adequate compensa-
tion for the responsibilities they are required to shoulder. A
salary increase is needed and overdue.

On the national scene, Montana Judges' salaries are approximately \$20,000 below the national average.

When comparing Montana Judges' salaries to the average of the salaries paid to our counterparts in our neighboring states (Idaho, Wyoming, North Dakota, and South Dakota), we are about \$10,000 below those salaries.

Montana Judges are daily making significant decisions that affect the lives and property of other persons.

For example, in the area of criminal law, judges decide whether or not to issue Search Warrants and Arrest Warrants and to determine the amount of bail. Judges preside over jury trials and rule on admissibility of evidence. After a conviction it is the judge who sentences the convicted felon and determines whether to impose a fine or deprive the defendant of his liberty by ordering a jail sentence or a prison sentence. In the extreme case of homicide, the judge decides whether or not to impose the death sentence. In every criminal case the property and freedom of the criminal defendant is at stake and in a capital case the very life of the felon is at stake. Judges do make life and death decisions.

Civil cases demand more of the judges' times than do criminal cases. I am now referring to negligence cases (auto accidents), products liability cases, malpractice cases, suits to enforce contractual obligations, and suits affecting ownership and interests in property. Judges are responsible to move those civil cases through the Court system in an orderly fashion by setting deadlines, ruling on pre-trial motions and presiding over bench trials and jury trials. Money damages and property interests of people are involved in those cases. A relatively new approach to try and reduce the number of civil cases that go to trial has been adopted by the judges in Montana: a mandatory pre-trial settlement conference is a last ditch effort to get the case settled by a conference of the opposing attorneys and their clients with a judge who will not be presiding at the trial.

Contested divorce cases are emotionally charged situations where the custody of minor children is at issue and hotly contested. Judges are responsible to award custody of children, to set child support payments and to divide the property and debts of the couple. Not an easy task but one required of judges. Divorce cases are extremely stressful to all concerned, including judges. The very future lives of children and adults are involved.

Judges are responsible to decide whether or not a person is suffering from a mental disease or illness which requires a commitment to our state mental hospital. Only a judge can commit a person to the state hospital on an involuntary basis.

Probably the most gut-wrenching cases a judge is confronted with are Youth Court cases involving physically or sexually abused minor children. The judge has the responsibility of protecting the interests of children and of removing them from their natural or step-parents home if the situation demands that drastic action. Investigations are ordered and if a re-unification plan is not complied with the judge can and does terminate parental rights with their children so the child can be formally adopted. A more serious affect on people's lives is difficult to imagine.

In other Youth Court cases, the judge is responsible to decide whether or not a delinquent youth (one who has committed a criminal offense) should be committed to the Pine Hills School or the Mountain View School. An extremely critical decision is often required as to whether or not a delinquent juvenile should be transferred into adult court for criminal prosecution as an adult.

I would submit that judges work much longer than a 40 hour work week. Evening work and weekend work is common.

Judges are required to participate and attend judicial education seminars, workshops and lectures in order to keep up to date with the never ending changes in the law.

Montana Judges are elected state officials who run as non-partisans. Judges generally commit themselves to a long term judicial career once elected. Judicial standards prohibit a judge from working a second job to supplement his salary. The state pays the judges' salaries and you committee members are part of the legislators who will set the judges' salaries.

On behalf of all the District Judges and Supreme Court Justices, I urge you to increase the salaries so as to adequately compensate the judges for the responsibility they bear as the judicial branch of our state government.

The judges favor both salary bills. If one bill is to be preferred over the other, the judges would recommend the indexing bill, i.e., SB 155 which ties our salaries into the average salary of our neighboring states. That would avoid the constant legislative struggle over judges salaries at each legislative session.

The Association also favors the SB 241 relating to Judges Retirement. A veteran judge of 15 years experience or more is presently penalized by earning only a 1% service credit allowance toward his retirement. It should be increased to 2%.

The Committee should note that there was a wide spectrum of support for the three bills being considered. There were no persons who appeared in opposition.

In the jargon of judges, when a case has been presented and is fully argued, the case is considered to be "ripe for decision". I would submit to the senators on this committee that the judges' proposed bills are "ripe for a favorable decision".

Following my oral presentation, one of the committee's staff members asked me to reduce my oral remarks to writing. Since I cannot recall my oral remarks verbatim, there probably are some differences between the above written statements and the oral presentation.

Respectfully Submitted,

Joel G. Roth

JOEL G. ROTH
DISTRICT JUDGE - GREAT FALLS
PRESIDENT - MONTANA JUDGES ASSOCIATION

TESTIMONY ON
SENATE BILL 241

SENATE JOURNAL
E NO 5 A
DATE 1/31/89
BILL NO. SB 241

Presented by: Larry Nachtsheim,
Administrator, Public
Employees' Retirement Div.

Mr. Chairman and Members of the Committee:

The Public Employees' Retirement Board does not oppose this bill.

As the administrator of 8 different retirement systems created by the Legislature, all with different benefit levels and various funding sources, the Board takes a neutral position on changes that are actuarially funded. It is the Board's understanding that this bill will not only provide the funding for the proposed change, but includes provisions to expedite the payment of current contributions.

The delayed contributions currently being made do have an adverse affect upon the retirement system and, if continued, will eventually have a major impact on the funding of the system.

If the appointee and the governor find they do not agree, the governor should have the option of removing, Senator Pinsoneault thought.

Senator Mazurek applauded Senator Pinsoneault's efforts but didn't think the amendment solved the problem with the bill. He felt the constitution was drafted as it was to remove the situation from politics. Senator Pinsoneault thought the governor should be allowed to govern. Senator Bishop said he felt the bill would stifle the members of the Board of Regents.

Amendments and Vote: Senator Pinsoneault MOVED his amendment. After discussion, the amendment was voted upon and CARRIED by a 8 to 2 vote with Senators Yellowtail and Beck voting NO.

Recommendation and Vote: Senator Beck MOVED that Senate Bill 273 DO NOT PASS. Senator Pinsoneault MOVED A SUBSTITUTE MOTION of DO PASS. Senator Mazurek MOVED a SUBSTITUTE MOTIONS for all motions pending of TABLING the bill as amended. The MOTION CARRIED by a vote of 6 to 4, with Senators Harp, Jenkins, Pinsoneault and Crippen voting NO.

DISPOSITION OF SENATE BILL 241

Recommendation and Vote: Senator Mazurek MOVED that Senate Bill 241 DO PASS. The MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment At: 11:00 a.m.



SENATOR BRUCE CRIPPEN, Chairman

BDC/rj
minrj.206

ROLL CALLJUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 2-6-8

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

February 6, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration
SB 241 (first reading copy -- white), respectfully report that SB
241 do pass.

DO PASS

Clerk of the Senate

Bruce D. Clifton, Chairman

4.6.15
3.16.15
2.2.15

than six months. The bill now would read for not more than six months.

Testifying Proponents and Who They Represent: None

Testifying Opponents and Who They Represent: None

Questions From Committee Members: None

Closing by Sponsor: Sen. Devlin thanked the members of the Committee.

DISPOSITION OF SB 210

Motion: Rep. Roth moved SB 210 BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion CARRIED unanimously. Rep. Nelson moved SB 210 BE PLACED ON THE CONSENT CALENDAR. The motion CARRIED unanimously. Rep. Roth will carry this bill on the House floor.

HEARING ON SB 241

Presentation and Opening Statement by Sponsor: Sen. Joe Mazurek, Senate District 23, Helena, introduced the bill. This bill makes several revisions to the Judges' Retirement System. To maintain the actuarial soundness of the retirement system, the bill requires that \$35 of the \$100 fee charged for filing a petition for dissolution of marriage and the total \$100 fee for filing a motion for substitution of a judge be transmitted to the state. The bill also increases from 31 percent of salary to 35.73 percent of salary the amount from court filing fees, including the fee for filing a petition for dissolution of marriage and a motion for substitution of a judge, to be deposited in the retirement system fund. Furthermore, the bill provides that a retired judge will receive 2 percent of salary (rather than 1 percent of salary) for each year of service after 15 years.

Sen. Mazurek said that he had introduced this bill last session. It passed the Senate by a substantial margin; it initially passed the House and then got caught up in the "twenty-five year retirement battle." Consequently, for reasons unrelated to the bill, it was killed in the House.

He said there are some actuarial problems within the Judges' Retirement System, which should be addressed. This bill attempts to do that. In addition, this bill also reduces a penalty which is imposed upon district court judges under

their present retirement system. This system, unlike any other retirement system in the state, penalizes a judge for working over 15 years. A judge's retirement allowance is based upon 33.33 percent of his final salary, up to 15 years. Once that judge has served 15 years, then the retirement is reduced to one percent of his/her final salary for each additional year of service. This bill would change that penalty from one percent to two percent. The reason for doing that is after judges have been on the bench for 15 years, they will probably be in the 55- to 60-year-age range. They have learned the system well, and they are at their most efficient performance in terms of years on the bench. Sen. Mazurek said that it doesn't make sense to give them an incentive to leave at that point. He said that, "This bill is offered that we may encourage the judges to stay on the bench because I think we would benefit from their service."

Sen. Mazurek said that the second reason he wanted to introduce this bill was "essentially an equity reason." He went on to say:

"In 1963 the contributions that the judges were required to make were increased from six to seven percent. Even though their contributions went up by that much, this penalty was retained."

Nine states with judicial retirement programs don't require any contribution at all. Montana requires a rather significant contribution.

This bill requires that \$35 from the dissolution of marriage fee be remitted to the Judges' Requirement System. In previous bienniums, \$40 of the filing fees for dissolution of marriages was used to fund programs like Big Brothers and Sisters and displaced homemakers. In a House Appropriations subcommittee this session, action was taken to take the \$40 formerly used to fund the displaced homemakers program and similar programs. These programs will now be funded from the unemployment insurance administrative tax account. The effect of this action is that \$40 was freed up. This bill would take \$35 of that \$40 and leave \$5 for other uses in the general fund. He said, "This bill would not take money from any programs."

Testifying Proponents and Who They Represent:

Joel G. Roth, Montana Judges' Association

Allen Chronister, State Bar of Montana

Jean A. Turnage, Chief Justice, Montana Supreme Court,
representing Montana Judges' Association

Linda King, Assistant Administrator, Public Employees'
Retirement Division

Proponent Testimony:

JOEL G. ROTH, a district judge from Great Falls, said that he has served on the bench for 12 years and is representing the 44-member Montana Judges' Association as their president. He said that the bill is a minor adjustment to increase the one percent service credit allowance to two percent. Mr. Roth said that when a person goes on the bench, he goes on for a long-term career. He said, "We are not talking about a lawyer going on the bench for the "short haul" for a stepping stone type of a job that will hopefully lead to a higher paying job. . . . We are talking about a man who has made a decision to be a judge. A judge is not a 100-yard dash man. A judge is a miler. He is in the race for the long haul. That is why retirement becomes important to the judges."

In summary, Judge Roth said, that if a judge retires after serving for 15 years, he would receive 50 percent of his salary as retirement income. He said that hopefully after 15 years, a judge would be at his/her "pinnacle" of his/her judicial career in terms of experience, knowledge and ability to handle the judicial system. Currently there is not much incentive for a judge to stay on the job beyond 15 years. He said,

"We are asking this Committee to consider increasing that one percent after 15 years to two percent. I think that is a very modest, minor, insignificant adjustment but one that will help the judges, and be somewhat of an incentive for the judges to continue on."

ALLEN CHRONISTER, appearing for the State Bar of Montana, said the State Bar supports this bill. He said that "one of the main attributes of this bill is to encourage people to look at the bench as a career move and something to do for the long haul." Mr. Cronister said, "Anything that can reasonably be done to promote that ought to be encouraged. For that primary reason we support this bill."

JEAN A. TURNAGE, appearing on behalf of the judiciary and as a member of the Supreme court, said that he personally is not interested in this bill as he is under PERS. He said, "On behalf of the Montana judiciary, we would very much appreciate your favorable consideration of the bill." He also said that the "bill is, hopefully, an equity bill. In fairness, we are the only system in government that has the step back on retirement credit."

LINDA KING, Assistant Administrator, Public Employees' Retirement Division, said the Public Employees' Retirement Board is neither a proponent nor an opponent of this bill. She said the Board has a concern that they feel will be assisted by this bill. The Board feels it is the Legislature's responsibility to set the limits in any retirement system. The Board is responsible for making sure the funds are available at the time of retirement. In the Judges' Retirement System, 31 percent of the salaries of all judges who are members of the system, are supposed to be paid into the system in contributions from district court fees. For the past six years, the court fees paid into the system have not been sufficient to equal 31 percent of the salaries. This bill requires an additional contribution rate. District court fees will become 35.73 percent of salaries. This will increase the amount available to be paid to the system. The total amount that will be paid to the system, based on current court fee collections (\$165,000 more), will not equal 35.73 percent of salaries. But it will be less of a shortfall than it is currently. Currently, the Judges' Retirement System is running anywhere from \$150,000 to \$180,000 short in contributions each year.

Ms. King said that district court fees are a stagnant source of revenue, and that is what causes this shortfall. The Board supports the provisions of this bill that would increase the court fees available as that will make the system more actuarially sound.

Testifying Opponents and Who They Represent: None

Questions From Committee Members:

REP. NELSON asked what the unfunded liability of the system is. Ms. King said, "It is right under 40 years in the terms of the amortization period."

REP. MOORE asked Chief Justice Turnage why he was on the PERS and not the Judges' Retirement System. He said that PERS is a better system for him because of his number of years of service.

REP. WESTLAKE asked how this bill could keep from affecting the displaced homemakers' program. Sen. Mazurek said that \$75 of the marriage dissolution fee goes into the general fund, and \$40 of the \$75 used to go to displaced homemakers and other programs. The subcommittee in Appropriations said they were not going to touch any of the \$75 this biennium and instead fund the programs through the unemployment administration tax account at the Department of Labor. This freed up \$40 in the general fund. This bill proposes to take \$35 of the \$40 to cover the costs of this bill plus the actuarial problems.

In response to a question from REP. SQUIRES regarding the retirement system's unfunded liability, Ms. King said that currently PERS is collecting between \$150,000 to \$180,000 a year less than is needed to fund the retirement system. The district court fees are insufficient. She said that by increasing the benefits by \$98,000, but also increasing the funds available to the system by \$165,000, you have approximately \$67,000 more going into the system. But this is not picking up the entire shortfall. There will be less of a shortfall with the bill.

REP. NELSON asked why the district court fees are insufficient. Sen. Mazurek said that traditionally district court fees went to fund the Judges' Retirement System. We now use district court fees to fund other programs.

Ms. King said that the fiscal note is somewhat in error. It assumes that \$67,882 would reduce the current deficit. The problem is that the current deficit is \$647,015 plus it increases \$15,800 a year. So the \$67,882 will make the \$150,000 to \$180,000 a year increase in the deficit less. So even though it puts more money into the system, it still is not enough to fully fund the system. She said when judges get salary increases, the salary base goes up. The district court fees have not.

REP. PHILLIPS asked if the judges that have already retired will be included under this legislation. Ms. King said that a judge who retires after the effective date of the bill would have his benefits accrue at this new rate; anyone currently retiring would not have a change in his retirement allowance because of this bill.

Jim Oppedahl, Supreme Court Administrator, said he wanted to bring two things to the Committee's attention: First, the district court fees that are collected have been pretty stable for the last four or five years. This created a shortage for the retirement system. He said that it has not always been that way. In fiscal years 1980 - 1983, district court fees returned in excess of \$1,000,000 to the general fund. That may be more of the pattern of what we are seeing now. We are looking, in terms of the fiscal note, at a very short range of collections. Prior to 1983, the collections were substantially greater than they are today. Second, the fiscal note does not consider the extent that a judge is discouraged from staying after 15 years. The judge that replaces him, instead of getting one percent, goes back to 3.33 percent. That is not a healthy situation for the retirement fund.

Closing by Sponsor: Sen. Mazurek said he thinks the bill is a "fairness issue." It is fair to people to be paid for the work they put in.

DISPOSITION OF SB 241

Action on the bill was deferred until the Committee could ask some questions and the judge's pay bill, SB 196, had been heard.

HEARING ON SB 232

Presentation and Opening Statement by Sponsor: Sen. Tom Keating, Senate District 44, introduced the bill. This bill permits a notary public authorized by any jurisdiction to perform notarial acts, for use in Montana. Presently a notary in Montana can notarize an instrument that is signed in Montana to be recorded in Montana. A Montana notary may sign an instrument signed in Montana for recording in some other state. A person in Montana can send an instrument to another state and have it signed there and notarized by a notary public in that state and record that in Montana. This bill would allow the notary to go from state to state. North Dakota passed a similar law two years ago allowing a Montana notary working in North Dakota to acknowledge an instrument signed in North Dakota to be recorded in North Dakota. This bill would be reciprocal to North Dakota's bill. It would allow a North Dakota notary public working in Montana to notarize an instrument in Montana to be recorded in Montana.

Sen. Keating said SB 232 would assist many of the businesses and people on the border between Montana and North Dakota.

Testifying Proponents and Who They Represent: None

Testifying Opponents and Who They Represent: None

Questions From Committee Members:

REP. MOORE asked if this bill would apply to all states. Sen. Keating said it would apply to states that have reciprocal agreements, and right now North Dakota is the only state that has this agreement.

REP. DEBRUYCKER asked if there would be any additional cost to the state. Sen. Keating said there would not be. A North Dakota notary, coming into Montana, does not have to register or fill out a form for the Secretary of State, nor do Montana notaries going to North Dakota have to file anything in North Dakota. All notaries are bonded. The bond goes with the notary wherever he/she functions. This is for the protection for the party seeking a notary acknowledgment. The grantee of an instrument is the one who is to seek out a proper notary for a proper acknowledgement. The burden is on the grantee in any of those situations to perfect his title of record in any transfer.

DAILY ROLL CALL

STATE ADMINISTRATION COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date March 8, 1989

NAME	PRESENT	ABSENT	EXCUSED
Rep. Jan Brown, Chairman	✓		
Rep. Helen O'Connell, Vice Ch.	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Ervin Davis	✓		
Rep. Floyd "Bob" Gervais	✓		
Rep. Janet Moore	✓		
Rep. Angela Russell	✓		
Rep. Carolyn Squires	✓		
Rep. Vernon Westlake	✓		
Rep. Timothy Whalen	✓		
Rep. Bud Campbell	✓		
Rep. Duane Compton	✓		
Rep. Roger DeBruycker	✓		
Rep. Harriet Wayne	✓		
Rep. Richard Nelson	✓		
Rep. John Phillips	✓		
Rep. Rande Roth	✓		
Rep. Wilbur Spring, Jr.	✓		

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEEBILL NO. SB 241DATE March 8, 1989SPONSOR SENATOR MAZUREK

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
<i>J. A. Turnage</i>	<i>Judiciary</i>	X	
<i>Joel A. Roth</i>	<i>Montana judges case</i>	X	
<i>Allen Chronister</i>	<i>State Bar</i>	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE COMMITTEE ON STATE ADMINISTRATION

March 16, 1989

Page 12 of 12

Court Chief Justice is on PERS. The bill will cover 42 members. REP. PHILLIPS said that if "we pass this for \$330,000, plus \$830,000 this biennium, we will be spending over \$1 million dollars on 42 people." He said that would be hard to justify to the "folks at home."

Amendments, Discussion, and Votes: None

Recommendation and Vote: A roll call vote was taken on the original motion. The motion FAILED on a 9 - 9 vote.
DISPOSITION OF HB 357

Discussion: CHAIRMAN BROWN said that REP. WHALEN had wanted to make a motion to take HB 357 off the table. Since he was not at the meeting, CHAIRMAN BROWN asked if he had asked any of the members of the Committee to make that motion. Lois Menzies distributed copies of Rep. Whalen's amendments (Exhibit 9) and explained them.

REP. ROTH said he did not think the bill would stand a chance of passing on the House floor. Since there was no motion on the floor, he moved to adjourn.

ADJOURNMENT

Adjournment At: 10:37 a.m.


REP. JAN BROWN, Chairman

JB/jb

6114.min

DAILY ROLL CALL

STATE ADMINISTRATION COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date March 16, 1989

NAME	PRESENT	ABSENT	EXCUSED
Rep. Jan Brown, Chairman	✓		
Rep. Helen O'Connell, Vice Ch.	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Ervin Davis	✓		
Rep. Floyd "Bob" Gervais	✓		
Rep. Janet Moore			✓
Rep. Angela Russell	✓		
Rep. Carolyn Squires	✓		
Rep. Vernon Westlake	✓		
Rep. Timothy Whalen			✓
Rep. Bud Campbell			
Rep. Duane Compton	✓		
Rep. Roger DeBruycker	✓		
Rep. Harriet Hayne	✓		
Rep. Richard Nelson	✓		
Rep. John Phillips	✓		
Rep. Rande Roth	✓		
Rep. Wilbur Spring, Jr.			

MONTANA

1426 Cedar Street • P.O. Box 5600

Helena, Montana 59601

Telephone (406) 442-4600

PUBLIC

March 12, 1989

EMPLOYEES

EXHIBIT 6

DATE 3-16-89

HB SB

ASSOCIATION

TO: House Committee on State Administration

FROM: Thomas E. Schneider, Executive Director

Subject: Senate Bill 241 (Judge's Retirement System)

As the original author of the Judge's Retirement System, I had been requested to testify before your committee but was unable to because of a conflict with MPEA legislation. I would like to offer this information and make myself available for questions either before the committee or on an individual basis.

The first thing one must do when analyzing SB 241 is to forget making a comparison with the other state and local government retirement systems. The reason you can't compare is because all of the other systems are based around the fact that their members start employment early, normally between the ages of 18 and 25, and are ready to retire between the ages of 45 thru 65 depending on the type of employment, with law enforcement normally retiring the earliest.

The Judge, on the other hand, usually doesn't become a judge until much later in life and that changes the methodology which has to be used to decide the benefit structure that meets the needs of this system.

The original legislation we drafted in 1967 allowed a member of the Judge's Retirement System to earn 3 1/3% for each year of service to a maximum of 75% of salary. While one of the reasons the legislature changed our proposal to 3 1/3% for the first 15 years of service and 1% thereafter was because the other state systems had similar limits at that time, the major reason was demographics of the judgeship at that time. The majority of judges being elected were between ages 55 and 60 with some even in their 60's. The feeling in the legislature was to remove the incentive to stay on after age 72.

We now have a whole new situation. Not only have the caps been removed and benefits increased in the other systems while there has not been one change in the formula structure of the Judge's system since 1967 when it passed, we are electing judges at a much younger age. Where the benefit structure in 1967 was intended to limit the incentive to serve past age 72, we are now faced with a benefit structure which provides a disincentive and, in fact, causes judges to leave the bench during the prime of their judge life. Retirement systems must be changed to meet the needs of the members they serve and the changes in society. This system needs to be changed in this area and I hope you can support SB 241.

Again, I would be happy to answer your questions.

The logo consists of a black outline of the state of Montana. Inside the outline, the letters "MPEA" are printed in a bold, sans-serif font.

DEPARTMENT OF ADMINISTRATION HB 241
PUBLIC EMPLOYEES' RETIREMENT DIVISION

STAN STEPHENS, GOVERNOR

(406) 444-3154

STATE OF MONTANA

1712 9TH AVENUE
HELENA, MONTANA 59620-0131

March 13, 1989

The Honorable Jan Brown
Chairman,
House Committee on State Administration
State Capitol
Helena, MT 59620

RE: Effect of Judicial raises on district court fees required to fund JRS

Dear Representative Brown:

On March 8, the House Committee on State Administration asked the Public Employees' Retirement Division to calculate the additional district court fees which would become payable to the Judges' Retirement System per \$1,000 increase in Judicial salaries.

In providing the following information requested by the Committee, it is not the Board's intention to propose or endorse any "cap" on proposed salary increases. While retirement benefits are a part of the overall employee benefit package provided by the state, the state has not included retirement benefits as part of any annual employee compensation plan. The Board is not suggesting that it is appropriate for the level of compensation paid to active members of the Montana Judiciary (or any other government employee) to be limited or enhanced because of the retirement system to which they belong.

IMPACT OF SALARY INCREASES IF SB 241 IS ENACTED: According to Supreme Court estimates of court fee revenues, SB 241 will pay for itself and make an additional \$67,882/year available for contributions to the Judges Retirement system. If salaries for members of the retirement system are increased, the following increased contributions will become payable from district court fees:

Additional District Court Fees (35.73% of total salaries)	Annual Increase/JRS Member (42 members)	Net Income from Court Fees to JRS over Current Law
\$15,007	\$ 1,000	\$ 52,875
30,013	2,000	37,869
45,020	3,000	22,862
60,026	4,000	7,856
75,033	5,000	(7,151)
90,040	6,000	(22,158)

Rep. Jan Brown

March 13, 1989

Page 2

IMPACT OF SALARY INCREASES WITHOUT SB 241: Without the additional \$67,882/year in SB 241, the following impacts would occur to the JRS:

Additional District Court Fees (31% of total salaries)	Annual Increase/JRS Member (42 members)	Net Income from Court Fees to JRS over Current Law
\$13,020	\$ 1,000	(\$13,020)
26,040	2,000	(26,040)
39,060	3,000	(39,060)
52,080	4,000	(52,080)
65,100	5,000	(65,100)
78,120	6,000	(78,120)

The Public Employees' Retirement Board supports SB 241 because, in addition to fully funding the benefit enhancements provided, it provides approximately \$67,882 each year to reduce the current deficit in the district court fees.

Sincerely,



Larry Nachtsheim
Administrator

ROLL CALL VOTE

STATE ADMINISTRATION

COMMITTEE

DATE 3-16-89 BILL NO. SB 241 NUMBER 1

NAME	AYE	NAY
Jan Brown		✓
Bud Campbell	✓	
Vicki Cocchiarella		✓
Duane Compton	✓	
Ervin Davis		✓
Roger DeBruycker	✓	
Floyd "Bob" Gervais		✓
Harriet Hayne	✓	
Janet Moore		✓
Richard Nelson	✓	
Helen O'Connell		✓
John Phillips	✓	
Rande Roth	✓	
Angela Russell		✓
Wilbur Spring, Jr.	✓	
Carolyn Squires		✓
Vernon Westlake	✓	
Timothy Whalen		✓

TALLY

9 9

Judy Bersanoff
Secretary

Jan Brown
Chairman

MOTION: Do Not Concur In.

ROLL CALL VOTE

STATE ADMINISTRATION

COMMITTEE

DATE 3-16-89 BILL NO. SB 241 NUMBER 2

NAME	AYE	NAY
Jan Brown	✓	
Bud Campbell		✓
Vicki Cocchiarella	✓	
Duane Compton		✓
Ervin Davis	✓	
Roger DeBruycker		✓
Floyd "Bob" Gervais	✓	
Harriet Hayne		✓
Janet Moore		✓
Richard Nelson	✓	
Helen O'Connell	✓	
John Phillips		✓
Rande Roth		✓
Angela Russell	✓	
Wilbur Spring, Jr.		✓
Carolyn Squires	✓	
Vernon Westlake		✓
Timothy Whalen	✓	

TALLY

9 9

Judy Burgess
Secretary

Jan Brown
Chairman

MOTION: Be Concurred In

the Supreme Court justices and \$54,378 for the district court judges.

REP. GERVAIS said that the judges' salaries should be brought in line with the amounts that REP. COCCHIARELLA stated.

REP. CAMPBELL'S motion FAILED on a voice vote.

Recommendation and Vote: A roll call vote was taken on the original motion that the bill BE CONCURRED IN. The motion CARRIED 10 - 8. (See roll call vote.) Proxies were furnished by Reps. Moore and Whalen. Rep. Dave Brown will carry this bill on the House floor.

DISPOSITION OF SB 296

Motion: REP. ROTH moved to reconsider action on SB 296.

Discussion: The motion CARRIED 15 - 1, with REP. CAMPBELL voting no.

Amendments, Discussion, and Votes: REP. ROTH made a motion to remove amendment No. 6 (Exhibit 8A). He did not want "may" as proposed in the amendment. He said he did not want to bind the two agencies to have the reviews restricted to only joint visitations. REP. ROTH said he wants the unannounced meetings to stay basically unannounced.

The motion CARRIED 12 - 4, with Reps. DeBruycker, Spring, Campbell and Phillips voting no.

Recommendation and Vote: REP. ROTH moved SB 296 BE CONCURRED IN AS AMENDED WITH THE PREVIOUS AMENDMENTS. The motion CARRIED 14 - 2, with Reps. Campbell and Spring voting no. Rep. Cocchiarella will carry this bill on the House floor.

DISPOSITION OF SB 241

Hearing Date: March 8, 1989

Motion: REP. COCCHIARELLA moved SB 241 BE CONCURRED IN.

Discussion: REP. CAMPBELL made a substitute motion that SB 241 BE NOT CONCURRED IN. REP. O'CONNELL said that many of the justices that are about to retire have been working at this lower wage. She said we should look at the future, not only

for the judges, but for all employees. REP. O'CONNELL said she opposed the substitute motion.

REP. DEBRUYCKER said he agrees with REP. O'CONNELL that we should be looking at the future as to where we are going to get the funds to pay for all of this.

CHAIRMAN BROWN called the Committee's attention to the letter from Larry Nachtsheim (Exhibit 8) that explained the effect of judicial raises on district court fees required to fund SB 241. She asked Linda King to answer any questions from the Committee.

Linda King said that the Public Employees' Retirement Board does not have any concerns with SB 241 sufficiently funded.

REP. PHILLIPS said we used to put \$75 in the state general fund; under this bill, we are only going to put in \$40. He asked how much in total that would take away from the general fund. Jim Oppedahl said this bill takes no money out of the general fund. The money now going into the general fund is being used for displaced homemakers and Big Brothers and Sisters programs. The action of the Appropriations Subcommittee has freed up the \$40 by using unemployment insurance administrative tax money. Actually, the impact on the general fund resulting from enactment of this bill will be to add an additional \$20,000.

The Committee expressed concerns over the unfunded liability of the Judges' Retirement System. Ms. King said that this bill would make the funding for the system better, but would not entirely correct it. She said that no one knows how much the court fees will be each year. If they increase, the system will be adequately funded; if they decrease or stay the same as they have been the last few years, the system will not be adequately funded. At the present time, the fund is actuarially sound. If the court fees remain at the same rate as they are now, the fund is not going to go bankrupt but it could have a problem. This bill will provide additional funds that would help the funding situation.

CHAIRMAN BROWN said that Tom Schneider, who was unable to attend the hearing on SB 241, submitted a letter to the Committee which provides some additional information (Exhibit 6).

A roll call vote was taken on the substitute motion to not concur. Rep. DeBruycker furnished a proxy vote. The substitute motion FAILED on a 9 - 9 vote.

REP. PHILLIPS asked for the total number of judges in the system right now. Jim Oppedahl said there are 7 Supreme Court Justices and 36 district court judges. The Supreme

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman Jan Brown, on April 6, 1989, at 10:04 a.m.

ROLL CALL

Members Present: All present, except:

Members Excused: Reps. O'Connell, Cocchiarella, Gervais, Moore, Russell and Whalen

Members Absent: None

Staff Present: Judy Burggraff, Secretary; Connie Erickson, Staff Researcher

Announcements/Discussion: Chairman Brown read a letter from Connie S. Jacques thanking the Committee for their action on SB 114 on behalf of the Montana Dental Hygienist's Association and herself (Exhibit 1).

DISPOSITION OF SB 241

Hearing Date: March 8, 1989

Motion: REP. NELSON moved to TAKE SB 241 OFF THE TABLE. The motion CARRIED with Reps. Debruycker and Westlake voting no.

Amendments, Discussion, and Votes: REP. PHILLIPS moved SB 241 BE CONCURRED IN. REP. PHILLIPS moved the amendments, which he presented (Exhibit 2). He said that the Committee heard testimony that the Judges' Retirement System was not in good shape financially. He said the amendments would grant the two percent increase, but the two percent provision of the bill would be deferred until July 1, 1991, when the retirement fund is "healthy."

REP. DEBRUYCKER questioned why the Committee was acting on the bill this session if the benefit enhancement was to be delayed for two years. Jim Oppedahl said that the statutes must be amended in order to get the money for the fund. The bill provides that fees for filing a motion for substitution of a judge and a petition for the dissolution of marriage must be deposited in the retirement fund. The money will begin flowing into the fund on July 1, 1989. The two percent increase will be delayed for two years.

The motion on the amendments CARRIED 13 - 3, with Reps. Westlake, Campbell and DeBruycker voting no. Proxy votes were furnished by Reps. Cocchiarella, O'Connell and Gervias.

Recommendation and Vote:

REP. PHILLIPS moved SB 241 BE CONCURRED IN AS AMENDED.

REP. DEBRUYCKER said that "we are right back in the same place where we were. We are raising people who are in the upper 10 percent income." He said, "isn't it true that most of the judges, out of the 42 that we have, own interests in banks, farms and ranches and other things? They are not depending on this bill for retirement. This isn't helping the needy; it's helping the greedy."

CHAIRMAN BROWN asked Rep. Phillips if he thinks somebody may next session try to strike the 1991 effective date and postpone the benefit enhancement for a couple of years, or does he anticipate the bill will stay as it is.

REP. PHILLIPS said he would hope that if the retirement system continues to be underfunded, that the Legislature would remove the benefit enhancement.

REP. CAMPBELL asked if it would be possible for a notice to be left with the Legislative Council to explain to whoever is appointed to the State Administration Committee next session what we have done here.

Connie Erickson was asked to see if this was possible.

The motion CARRIED 14 - 4, with Reps. DeBruycker, Compton, Westlake and Campbell voting no. Proxies votes were furnished by Reps. Whalen, Moore, O'Connell, Gervais and Cocchiarella. Rep. Spaeth will carry the bill on the House floor.

ADJOURNMENT

Adjournment At: 10:26 a.m.


REP. JAN BROWN, Chairman

JB/jb

7714.min

DAILY ROLL CALL

STATE ADMINISTRATION COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date April 6, 1989

NAME	PRESENT	ABSENT	EXCUSED
Rep. Jan Brown, Chairman	✓		
Rep. Helen O'Connell, Vice Ch.			✓
Rep. Vicki Cocchiarella			✓
Rep. Ervin Davis	✓		
Rep. Floyd "Bob" Gervais			✓
Rep. Janet Moore			✓
Rep. Angela Russell			✓
Rep. Carolyn Squires	✓		
Rep. Vernon Westlake	✓		
Rep. Timothy Whalen			✓
Rep. Bud Campbell	✓		
Rep. Duane Compton	✓		
Rep. Roger DeBruycker	✓		
Rep. Harriet Hayne	✓		
Rep. Richard Nelson	✓		
Rep. John Phillips			
Rep. Rande Roth	✓		
Rep. Wilbur Spring, Jr.	✓		

Amendments to Senate Bill No. 241
Third Reading Copy

Requested by Representative Phillips
For the House Committee on State Administration

Prepared by Lois Menzies
April 5, 1989

1. Title, line 10.

Strike: "AN"

2. Title, line 11.

Strike: "DATE"

Insert: "DATES"

3. Page 6, line 6.

Strike: "date"

Insert: "dates"

Following: "."

Insert: "(1) Except as provided in subsection (2),"

Strike: "This"

Insert: "this"

4. Page 6.

Following: line 7

Insert: "(2) [Section 2] is effective July 1, 1991."